

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CHARLES TODD CLOWER,
Plaintiff,

v.

FERNO GROUP, INC. and
FERNO WASHINGTON, INC.,
Defendants.

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Cause No. _____

JURY DEMAND

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE THAT, pursuant to 28 USC §§ 1441 and 1446, Defendants hereby file this Notice of Removal as to the state court action styled *Charles Todd Clower v. Ferno Group, Inc. and Ferno Washington, Inc.*, from the 160th Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division. Defendants are entitled to removal because diversity jurisdiction lies in the United States District Court for the Northern District of Texas. Diversity jurisdiction exists where there is complete diversity between the Plaintiff and Defendants and where the amount in controversy exceeds \$75,000.00. 28 U.S.C. § 1332(a). In this matter, there is complete diversity of jurisdiction, and the amount in controversy exceeds \$75,000.00.

I. Documents Attached Pursuant to L.R. 81.1

1. Pursuant to L.R. 81.1(4)(A), an index of all documents, including the date each document was filed in state court, is attached as **Exhibit A**.

2. Pursuant to L.R. 81.1(4)(B), a copy of the state court docket sheet is attached as **Exhibit B**.

3. Pursuant to L.R. 81.1(4)(C), a copy of each document filed in the state court action is attached as **Exhibit C-1** through **C-9**.

4. Pursuant to L.R. 81.1(4)(D), a copy of Defendants' Certificate of Interested Persons is attached as **Exhibit D**.

II. This Notice Complies with the Procedural Requisites of 28 U.S.C. §§ 1441 and 1446

5. Plaintiff filed a civil action against Defendant in the 160th Judicial District Court of Dallas County, Texas, styled *Charles Todd Clower v. Ferno Group, Inc. and Ferno Washington, Inc.*, Cause No. DC-21-01485 (hereinafter the "State Court Action"). See **Exhibit C-2**.

6. Plaintiff obtained service of process on Defendant Ferno Washington, Inc. on February 22, 2021. See **Exhibit F**, ¶ 5. Plaintiffs obtained service of process on Defendant Ferno Group, Inc. on February 24, 2021. See **Exhibit F**, ¶ 3.

7. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(1), as it is filed within thirty days of when each Defendant first received a copy of *Plaintiff's Original Petition*.

8. Venue is proper in this Division and District pursuant to 28 U.S.C. §1441(a) because the State Court Action was filed in Dallas County, Texas, which is within the Dallas Division of the United States District Court for the Northern District of Texas.

9. As required by 28 U.S.C. § 1446(d) Defendant filed the attached Notice of Filing of Notice of Removal with the 160th Judicial District Court in Dallas County, Texas, on the date the original Notice of Removal (Doc. #1) was filed. See **Exhibit E**, Notice of Filing of Notice of Removal.

III. This Court Has Diversity Jurisdiction Over This Case

10. Diversity jurisdiction exists where there is complete diversity between Plaintiff and Defendant and where the amount in controversy exceeds \$75,000.00. *See* 28 U.S.C. §1332(a). There is complete diversity between Plaintiff and Defendants.

11. Plaintiff is an individual residing in Van Zandt County, Texas at the time he filed his *Plaintiff's Original Petition*. *See Exhibit C-2, ¶ 2*.

12. A corporation is a citizen of every state in which it is incorporated and where it has its principal place of business. *See* 28 U.S.C. §1332(c)(1). Defendant Ferno Group, Inc. is incorporated in and has its principal place of business in Wilmington, Ohio. *See Exhibit F, ¶ 2*. Defendant Ferno-Washington, Inc. is incorporated in and has its principal place of business in Wilmington, Ohio. *See Exhibit F, ¶ 4*. Accordingly, Defendants are citizens of Ohio for purposes of 28 U.S.C. §1332(a).

13. Because Plaintiff is a resident of the State of Texas, and Defendants are citizens of the State of Ohio, there is complete diversity of citizenship between Plaintiff and Defendants as required by 8 U.S.C. § 1332(a),(c).

15. Plaintiff alleges in his Original Petition that he is seeking actual damages in an amount “over \$200,000 but not more than \$1,000,000.00.” *See Exhibit C-2, ¶ 6*. Accordingly, Plaintiff has asserted alleged damages in excess of the \$75,000.00 minimum jurisdictional amount required by 28 U.S.C. §1332.

16. As there is complete diversity between Plaintiff and Defendants, and the amount in controversy exceeds the sum of \$75,000.00, this case satisfies the jurisdictional requirements set forth in 28 U.S.C. §1332.

WHEREFORE, PREMISES CONSIDERED, Defendant, pursuant to the foregoing statutes, removed this action for trial from the 160th Judicial District Court of Dallas County, Texas, styled *Charles Todd Clower v. Ferno Group, Inc. and Ferno Washington, Inc.*, Cause No. DC-21-01485, to this Court on March 24, 2021.

Respectfully submitted,

**MACDONALD DEVIN ZIEGLER MADDEN KENEFICK
& HARRIS, P.C.**

/s/ Patrick F. Madden

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, in accordance with the Texas Rules of Civil Procedure, the undersigned served a true and correct copy of the foregoing document on counsel of record via electronic filing, on March 24, 2021:

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Counsel for Plaintiffs

/s/ Patrick F. Madden

Patrick F. Madden